SECTION 4: FACILITATING the BROADER IMPLEMENTATION of TOD

Chapter 8 summarizes the major barriers encountered by those wishing to implement TOD in California, and summarizes some options for addressing them. It then provides an overview of what other states are doing to encourage and facilitate TOD. Finally, Chapter 9 offers and describes 14 recommended strategies that the State of California could undertake to help facilitate the broader implementation of TOD at local and regional levels.

CHAPTER 8: What are Major Barriers to Implementing TOD, and What Could be Done to Overcome Them?

CHAPTER 9: What Can the State Do to Encourage and Facilitate the Broader Implementation of TOD in California?

Parsons Brinckerhoff and California Dept. of Transportation

This light rail station is located within the America Plaza TOD that includes offices, shops and an art museum in downtown San Diego.

CHAPTER 8 - What are the Barriers to Implementing TOD, and What Could Be Done to Overcome Them?

Primary authors of chapter: Terry Parker, GB Arrington

I. Introduction

This chapter first provides an overview of information regarding barriers to the wider implementation of TOD in California. It briefly discusses potential options for addressing these barriers. Finally, section II summarizes several important strategies that are being used in other parts of the country to help overcome barriers to wider TOD implementation.

This chapter 'sets the stage' for recommendations that are presented in the final chapter regarding what the State could do to help facilitate the broader implementation of TOD.

Parsons Brinckerhoff and Calif. Dept. of Transportation

The *EmeryStation* TOD at a busy Amtrak station in Emeryville has transformed a brownfield into a new mixed-use center.

II. TOD Implementation Issues in California

While the benefits of TOD can be significant, so are the barriers to its wider implementation. A decade ago there was concern about whether there was a sustainable market for TOD-style products in California. Today, however, there are a number of well-performing TODs in several metropolitan areas in California which demonstrate that market demand for TOD products in many urban and suburban locations is not a major barrier.

A number of implementation issues have emerged in this study's review of the implementation of TOD in California. These are summarized below, along with a brief discussion of potential options for addressing them. Chapter 9 provides more specific background information as well as recommendations on specific steps that could be undertaken to address these issues.

Financial Challenges

Mixed-use developments that include retail, office, and civic elements remain a challenge to finance and implement. Mixed-use projects are hindered by requirements for separate appraisals, and sometimes separate financing, for each land use. Also, TODs that include a retail element have proven to be challenging in two regards – financial performance and adherence to TOD design principals.

Infrastructure Costs[LXXVI]
Many TODs are located within older urbanized areas where infrastructure is in place, but may be too obsolete or undersized to adequately serve newer and denser development. In these areas, TOD implementation costs and development feasibility can be impacted by the high cost of replacing or expanding outdated or undersized infrastructure. Comparatively, for a community as a whole, encouraging infill development can lower infrastructure costs for local governments by reducing the need to expand facilities to far-away areas.

Fiscalization of Land Use
Many believe that local government dependence on sales tax revenues from retail development in California has tended to skew land use patterns toward high volume, more auto-oriented retail uses that are often located in outlying areas. While it can be true, on a single project basis, that 'big box'[LXXVII] discount stores and auto malls can generate more tax revenues for local governments than traditional retail stores, the land requirements for these large projects tend to push development to fringe areas that are typically accessible primarily by automobile.

Ultimately there is a limit to the number of large discount stores and shopping malls that can be financially supported in any metropolitan area. Furthermore, the location of 'big box' retail on the fringe of urban areas tends to make it more difficult for smaller retail establishments downtown and near train or bus stations to survive.[202]

This situation creates a significant challenge for local governments: although urban infill, transit-oriented development, and more housing may meet many important local needs, such land uses may not be fiscally supportable given the current tax structure in California. The result is that local governments may resist approving transit-supportive development when faced with the alternative of developing high-volume or big box retail uses that generate larger amounts of sales tax revenues.

Obtaining Development Entitlements
Developers and local planners interviewed for this study indicated that a primary barrier to TOD implementation is the challenge of obtaining local government entitlements (e.g. development approvals) to build TODs. This study confirms that there is often a lack of local transit-friendly zoning or plans at many major transit stations throughout the State. This creates a significant barrier to wider TOD implementation.

Changing zoning and/or General Plan designations to allow TODs can be a time-consuming, expensive, and often unpredictable process that significantly adds to the cost and feasibility of implementing TOD.

[LXXVI] 'Infrastructure' as used in this report refers to water, sewer, roads, and utilities.

[LXXVII] According to one source, "big boxes" typically occupy more than 50,000 square feet of land. Buildings are between 90,000-200,000 sq. ft. in size; they tend to be large, windowless, rectangular, and single-story, with standardized facades; they rely on auto-borne shoppers; and are surrounded by acres of surface parking. (Source: New Rochelle Studio), at: http://www.columbia.edu/itc/architecture/bass/newrochelle/extra/big_box.html

Part of the solution to the development entitlement issue may be for local governments to prepare 'specific area plans' [LXXVIII] around major transit stops, or to enact other similar planning tools (such as transit overlay zones, etc). Doing so would help ensure that individual TOD projects could be built without undergoing a prolonged and expensive zoning and/or General Plan change process. Furthermore, it would allow important community issues to be addressed in a more orderly and comprehensive way than reacting to development proposals. In that way, any subsequent projects that are consistent with an adopted plan could be more efficiently permitted.

However, many people who participated in this study stated that local land use planning in California is seriously under-funded in general, resulting in a lack of the type of land use planning necessary for TOD. (Please see Chapter 9 for more specific information and recommendations on this topic.)

Local Concerns about Traffic

TOD can be part of an effective regional or community-wide strategy to increase transit ridership and reduce automobile dependence.[203]

However, at a site-specific level, local community opposition to individual TODs often arises from concerns about potential increases in local traffic associated with increased densities or other characteristics needed for successful transit-supportive development.

These concerns often result in project delays, uncertainty, and reductions in allowable density. All of these tend to increase costs, dilute effectiveness, and/or reduce revenues of TOD.

Traffic associated with density can contribute to more intense traffic congestion within specific areas. However, local development approval processes do not have a mechanism to balance localized effects with community-wide or regional benefits. They typically also don't take into consideration how much traffic and air pollution would be generated if the same number of low-density, conventional houses or employment sites were to be built in a sprawl pattern or without transit.

Need for Better Data

The lack of evidence documenting a track record of TOD as a successful development product is an obstacle in convincing stakeholders and bankers about the benefits of projects. And, the lack of accurate or up-to-date information on the potential benefits of TOD in shifting travel from the automobile to transit and non-motorized modes in local analysis tools (such as traffic models) has become a serious impediment to the broader implementation of TOD, infill development, and affordable housing that meets market demand.

[LXXVIII] A 'specific area plan' is a legal tool authorized by Article 8 of the Government Code (Section 65450 *et seq.*) for the systematic implementation of a portion of a community's planning area. It specifies in detail the land uses, public and private facilities needed to support the land uses, phasing of development, standards for the conservation, development, and use of natural resources.

New or revised transportation analytical tools and data are needed to enable local and regional agencies to more accurately project the transportation performance of proposed TOD projects, as is required by CEQA and local development planning and approval processes. [LXXIX]

Parking Challenges
The location, type, and amount of parking can significantly impact the design and pedestrian-friendliness of a TOD project. As densities increase, so does the need for structured parking, which can add substantial costs to a project. [LXXX]

One mitigating factor is that parking requirements for housing, offices, and shops in TODs may be lower than for conventional auto-oriented development because of the availability of transit and the mixture of land uses. Reduced parking ratios can improve the financial feasibility of implementing TOD.

On the other hand, some developers state that they can't attract certain retail or private office tenants without providing sufficient parking, and that they would need to accept lower rents in return for reduced parking ratios. [LXXXI]

Land Assembly
Opportunities for TOD in existing urban areas are often limited by the availability of adequately large sites for development. Consequently, for TODs in urban and infill settings, land aggregation can be very important. In order to create projects with enough 'critical mass' to be economically viable, assistance with assembling land may often be required, especially in urban infill areas.

In California, redevelopment agencies have played an important role in assembling land for TOD in several areas. For example, the City of San Diego Redevelopment Authority assembled land for several TODs, including the Villages of La Mesa, La Mesa Village Plaza, Mercado at Barrio Logan, and Uptown Village. In the San Francisco Bay Area, the land for Del Norte Place (El Cerrito), Atherton Place (Hayward), and Park Regency (Pleasant Hill) was assembled by local redevelopment agencies.[204]

Disposition of Public Land
In many locations throughout the state, transit agencies and State departments own significant real property holdings that could provide a potential land supply for TOD. Furthermore, there is interest among many local governments and transit agencies in accessing State land for TOD purposes.

[LXXIX] California Environmental Quality Act.
[LXXX] Depending on land values and design, surface parking may cost between $1,500 and $3,000 per space. In comparison, stalls in a multi-level parking structure cost $15,000 to $25,000 each (or more).
[LXXXI] For a detailed discussion of the issues and challenges of parking in TOD, see the special report on *TODs and Parking* available at Caltrans' website: http//www.dot.ca.gov/hq/MassTrans/tod.htm

In most cases, State land disposition laws require State agencies to sell property to the highest competitive bidder, regardless of the proposed subsequent use. This can be a barrier when parcels are sold to buyers who have no interest in using the land for TOD.

Additionally, when local zoning designations for sites near transit stations are not transit-supportive, it even further complicates the appraisal and disposition process. Chapter 9 recommends a process for dealing with this issue in California.

Use of Tax-increment Financing
Beyond land assembly, redevelopment agencies have another powerful tool at their disposal: tax-increment financing.[LXXXII] This funding tool has been very beneficial in planning and implementing TOD within redevelopment areas because it provides a significant source of local funding for building projects.

However, tax-increment financing is currently only a limited tool for TOD since only a few of California's major transit stations are included within the boundaries of existing redevelopment areas. Without new legislation to allow the use of tax-increment financing at major transit stations and corridors outside of designated redevelopment areas, the majority of California TODs will continue to be precluded from its benefits.

Lack of TOD Expertise and Coordination
Many private developers, as well as local government and transit agency staff, lack the experience necessary to develop complex TOD and transit 'joint development' projects. The number of private developers and local jurisdiction staff that have a practical understanding of how to implement TOD or have successful experience with TODs is small.

In addition, a lack of effective coordination among local and regional land use, transportation planning, and transit agencies appears to be a challenge to implementing transit and TOD in several regions of the state.

Need for Better Information
Most of the participants involved in this study agree that there is a significant need for more and better quality information on TOD. In particular, there is a strong desire for information on TOD implementation, and its actual effects and benefits.

Technical experts agree that a significant information gap exists regarding general community-wide benefits of TOD, as well as project-specific data on travel and economic outcomes. Better data is needed to fill this gap, and many believe that this would be a reasonable role for the State of California to play.

[LXXXII] Tax-increment Financing is a technique allowed under California Redevelopment law wherein property taxes owed on the value of new development within a redevelopment area are captured for reinvestment in the district rather than going into general-purpose funds of the local governments. This allows the increase in tax revenues to be targeted for improvements defined in the adopted redevelopment plan for that area.

III. Other States' TOD Strategies

A brief overview of some of the latest innovations concerning TOD implementation in America reveals a variety of strategies and approaches that are potentially applicable to California. This section provides a 'snapshot' of these.

On a national scale, major types of TOD implementation strategies fall into these broad categories:

- TOD planning
- Abatement of taxes
- Transit joint development
- Direct Participation
- Use of government-owned land

Encourage TOD Planning
With the passage of the Federal 'Transportation Equity Act of the 21st Century' (TEA-21), it is now possible to use some Federal funds to pay for TOD planning at the local level. Transit agencies, metropolitan planning organizations and states can now transfer certain 'flexible'[LXXXIII] Federal transportation funds to local governments for use in a wide range of planning activities, including TOD planning and implementation. (For more detail on these funding sources, please see Chapter 7 as well as the Appendix volume.)

In California, the SF Bay Area's Metropolitan Transportation Commission's (MTC) 'Transportation and Livable Communities' (TLC) Program[205] is an example of a regional program that passes Federal transportation funds to local governments for TOD planning and implementation, as well as other 'livable communities' activities.

Beyond California, projects in the Portland region, Seattle, and Minneapolis are important examples of successfully "flexing" Federal funds for TOD planning and implementation.

Abatement of Taxes
In some areas, there may not be a sufficient real estate market for the higher densities, quality design, and/or lower parking ratios that typify TOD. One strategy that has been used in some states to help address this barrier is the abatement of property taxes or fees for qualifying TOD projects.

For example, to facilitate the broader implementation of TOD, the State of Oregon passed enabling legislation in 1995 that allows local governments the option of enacting local property tax abatement for up to 10 years for TODs. The cities of Portland and Gresham have taken advantage of this provision. The Portland Development Commission (PDC) administers the Portland program, which has resulted in the construction of nearly 1,000 new higher-density transit-supportive residential dwelling units.[206]

California law allows local governments to provide some abatement of property taxes for affordable housing projects.[207] However, California's Proposition 13

[LXXXIII] The funds are flexible in that they can be used for roads, highways or for transit. Federal funds in this category include CMAQ, STP, 5309, and TCSP.

limits flexibility regarding other property tax rate changes.

Transit 'Joint Development'
Transit joint development involves the use of publicly-owned property for land use development that is either "physically or functionally related" to a transit investment. In 1997, the Federal Transit Administration (FTA) added flexibility to its 'Joint Development Policy' to allow the use of land that was purchased with Federal transit funds for TOD.[208]

This FTA policy now allows property to be used for the "highest and best *transit* use" (which can include TOD), rather than the previous and much more narrow "highest and best *economic* use" which required selling property to the highest bidder, regardless of the intent for use.

Therefore, transit agencies can now directly use, sell, or lease property for land use activities that will help generate ridership and potentially additional revenue for the system. In addition, due to changes in Federal regulations, transit agencies are no longer required to repay the Federal treasury for its share of land that was acquired with FTA funds, as long as the land is sold or leased for the purpose of transit joint development.

As a result of these Federal policy changes, a significant number of transit agencies across the country are increasingly using, leasing, and/or selling land for TOD projects. (See chapter 4 for more detail.)

Transit systems in Washington, DC, Atlanta, and the San Francisco Bay Area are national leaders in joint development. For example, the Washington Metropolitan Area Transit Agency (WMATA) in Washington DC has undertaken 27 development projects on agency-owned land, with a real estate value of more than $2 billion. These undertakings now produce more than $6 million annually in additional revenue for the transit system.[209] Several California transit agencies are also becoming more active in joint development (these are described in Chapter 5).

Direct Participation
Some government agencies are now using Federal, State, and regional funds to directly participate in financing and building TODs. While these Federal funds come with a myriad of constraints and conditions, the broader prospects are promising as more local agencies and their Federal and State partners become more experienced with TOD implementation.

For example, the Portland area government, ('Portland Metro') uses a combination of Federal TEA-21 and local funds to purchase site control and for direct financial participation in TOD projects. To date, a revolving loan fund program that Portland Metro established has helped fund nine projects through investments in individual TODs ranging from $50,000 to $2 million each. The program is designed to be self-sustaining and expects to recapture its investments though loan repayment.

In addition, Portland also established a regional "Congestion Mitigation and Air

Quality (CMAQ) TOD Program" which is administered by the Portland Development Commission, the City of Portland's urban renewal agency. Under this program, to date the Commission has granted $3.5 million in CMAQ funds to nine TOD projects for land acquisition, design, and transit amenities. [210]

Use of Government Land

Some transit systems have proactively considered transit-oriented development in the design and implementation of major transit facilities, such as new rail lines, transit centers, and bus rapid transit projects. Transit facility parcels, along with other public agency lands, are being used to help build TODs.

It is often necessary to acquire and dispose of real estate as part of developing a new transit line or station. Transit agencies can make better-informed decisions about how much land should be purchased for a new transit facility when they consider TOD during their planning process. For example, rather than buying a small sliver of land (a 'partial take'), a transit agency could instead purchase an entire parcel to take advantage of TOD opportunities.

Another strategy for major transit projects, such as a new rail line, is to secure a construction mobilization site that can later be turned into a TOD. Nationally, depending on transit agency regulations, such land is often sold at less than full market value prices. The reduced cost of the land becomes an incentive to achieve higher-density, better design, and a different parking system than would otherwise be possible.

CHAPTER 9: What Can the State Do to Encourage TOD Implementation in California?

Primary Authors: Terry Parker, Mike McKeever, GB Arrington, and members of the Study's Technical Advisory and Policy Steering Committees.

I. Introduction

This chapter provides an overview, list and description of fourteen strategies that the study's Technical Advisory and Policy Steering Committees have recommended that the State of California could pursue to facilitate the broader implementation of TOD.

Jay Paul Company

Development incentives allowed the Jay Paul Company to agree to significantly increase the density of Moffett Park and reduce parking in exchange for a privately funded light rail station

The first five chapters of this report present information about the definition, status, opportunities, benefits, and impediments regarding transit-oriented development in the U.S. and California.

Chapter 6 provides important information about the market demand for TOD, along with important insights into the challenges and successes experienced by developers and others who are implementing transit-oriented development in California.

Chapter 7 discusses the challenges involved with financing TOD, and also provides suggestions about a number of local, regional, State, and Federal funding sources that could be used for planning and implementing TOD and similar projects.

Chapter 8 summarizes the major barriers that are typically encountered in California regarding the implementation of TOD. It also provides an overview of what other states are doing to encourage and facilitate the implementation of TOD, and the strategies they are using.

State Strategies

One of the primary "findings" of this study is that, even though investment in California's transit system has significantly increased in the past several years, the location and design of transit stations and nearby land uses often is not optimal to encourage and facilitate transit use. By more closely linking land use practices with other programs, such as transportation, housing, services and infrastructure, overall system performance could be improved.

The State could also reinforce its significant investment in transit and improve its cost-effectiveness.
One of the major objectives of this study has been the identification and description of strategies that the State of California could pursue to help facilitate the wider implementation of TOD.

Recommendations regarding a set of fourteen promising State-level strategies has resulted from an extensive participatory process lasting over a year. The process to develop and recommend strategies unfolded as follows:

- A review of the 'state-of-the-practice' of TOD implementation for major transit systems throughout the United States.
- Investigation of TOD implementation in the major metropolitan areas in California (San Francisco Bay Area, Southern California, San Diego, and Sacramento).
- Preparation of case studies for a dozen TODs in California, focusing on: current status, how they were implemented, what barriers were encountered, and how those barriers were overcome, and "lessons learned".
- Interviews with developers, local officials, transit operators, and interested groups in California who are or have been involved in TOD implementation.
- Numerous day-long work sessions with this study's Policy and Technical Advisory Committees; and,
- The identification, development, discussion, and consensus recommendation of fourteen promising State strategies by the policy and technical advisory committees.

II. Overview of State TOD Implementation Strategies

The following sections provide an overview, list, and description of fourteen strategies that the members of the Policy Steering Committee and Technical Advisory Group to this study have unanimously recommended regarding actions that the State should undertake to encourage the broader implementation of TOD in California.

These strategies are organized in two broad areas:

1. State Policies and Practices; and
2. Finance and Implementation.

An overview of these two areas is provided below, followed by a list of the strategies. Finally, in Section IV, each strategy is presented and described in detail, including background information, activities involved in its implementation, strengths and issues, and priorities for implementation.

Strategy Area #1: State Policies and Practices

Recommended strategies in this category are:

- Encourage improved coordination of land use and transportation planning at local and regional levels.
- Facilitate the use and sale of State-owned land near major transit stations for TOD.
- Examine State environmental review requirements in relation to TOD to determine whether changes may be indicated to reduce barriers.
- Contribute to improved data on travel and economic impacts of TOD, and facilitate the use of this data in improved analysis and decision-making tools; and
- Develop and provide quality information and technical assistance on TOD implementation.

TOD proponents often face significant delays and difficulties when trying to secure local land use approvals for TOD projects, even in areas where policies are supportive of this type of development. The State can encourage local agencies to more closely link land use practices that promote a transit-friendly urban form by providing information, funding for planning, and encouraging closer cooperation among local and regional entities.

In addition, the State can provide direct assistance for TOD implementation by reducing existing barriers to leasing or purchasing State-owned "excess" and/or underutilized land located near major transit stations. There is also an important role for the State in directly developing and disseminating data and information about the effects and benefits of TOD regarding travel, economic, and social benefits and impacts. This information is needed to improve the accuracy of analysis prepared for proposed TOD projects, and also to help clarify and expedite local land use approval processes.

Strategy Area #2: State Funding for Planning and Implementation

Recommendations of this study regarding what the State of California could do to help overcome barriers to funding and financing TOD implementation are:

- Provide funding to local jurisdictions to prepare plans and adopt ordinances that facilitate transit-oriented development.
- Provide financial incentives to enable local agencies and private organizations to implement TOD.
- Offer funding for identified types of TOD demonstration projects.
- Change existing law to allow local agencies to provide 'tax-increment financing' around major transit stations, even if they are located outside redevelopment areas.

- Allow greater flexibility in the use of State transportation funds for TOD; and

- Help make private TOD mortgage instruments, such as the "Location Efficient Mortgage" (LEM) program, more widely available.

Even though market demand for TOD-style projects is high in major metropolitan areas, it is often difficult for developers of transit-supportive projects to obtain adequate funding and financing. Public incentives for TOD implementation in California are very limited outside of established local redevelopment areas. And, the mixed-use aspect of good TOD design can make it much more difficult for developers to obtain loans from private financial institutions not accustomed to funding these types of projects.

To complicate the situation, local jurisdictions often lack adequate resources necessary to prepare TOD 'specific plans' or to change development ordinances to encourage TOD. In addition, local agencies typically cannot provide adequate financial incentives or assistance to encourage quality TOD design and implementation, unless a project is located within an established redevelopment area where tax-increment financing is available.

Photo by Kim Harrington, provided by Wareham Development

EmeryStation, Emeryville, California

III. Recommended State TOD Implementation Strategies List

State Strategy Area 1: STATE POLICIES and PROGRAMS

STRATEGY 1A - Improved coordination of local and regional land use and transportation planning

Encourage local and regional agencies to more closely coordinate land use and transportation planning and development.

STRATEGY 1B - Use and sale of State land for TOD

Facilitate the use and sale of State-owned land near major transit stations for TOD.

STRATEGY 1C – Facilitate local review and approval processes

STRATEGY 1C(1) – CEQA processes in relation to TOD

Coordinate a study of California Environmental Quality Act (CEQA) processes and requirements in relation to TOD.

STRATEGY 1C(2) - Improved models and analysis tools

Encourage the development and use of analysis and decision-making tools that more accurately account for the benefits and effects of TOD in local land use review and approval processes.

STRATEGY 1C(3) – Improved data on effects and benefits of TOD

Fund and disseminate research to develop reliable data on the effects and benefits of TOD, especially regarding transportation and economic changes. These data should be incorporated into analysis and decision-making tools.

STRATEGY 1.D - Technical assistance and information

Develop and disseminate practical information and technical assistance on TOD statewide, including:

i) Create and fund a statewide information "clearinghouse" on TOD implementation.

ii) Sponsor conferences, courses, and other outreach efforts.

iii) Fund 'circuit riders' to provide technical assistance to local agencies and developers regarding TOD implementation.

State TOD Strategy Area #2:
FUNDING for TOD PLANNING and IMPLEMENTATION

STRATEGY 2A - Provide funding to local agencies to plan and implement TOD near major transit stations

STRATEGY 2A(1) - Funding for local TOD planning

Develop and provide funding to local jurisdictions to create plans near major transit stations, and to remove existing barriers to TOD implementation in local codes. Such funding would be based on the coordination of land use, transit, housing, jobs and services in local plans and programs.

STRATEGY 2A(2) - Funding for local agency TOD implementation

Develop and provide funding to local agencies for TOD implementation, and to provide incentives. Funding would be based on local adoption and implementation of transit-supportive planning, zoning, and/or other programs.

STRATEGY 2A(3) - Funding for TOD Demonstration Projects

Fund TOD demonstration projects that 'showcase' certain innovative features (such as particular design characteristics; mixed land uses; projects in rural communities; use of innovative financing; coordination among local groups; etc.)

STRATEGY 2A(4) - State "Housing Incentive Program"

Create and fund a State-level 'Housing Incentive Program' to encourage the development of moderate to higher-density housing near major transit stations.

STRATEGY 2B - Targeted tax-increment financing for TOD

Adopt legislation to allow local jurisdictions and agencies to create special districts around major transit stations (outside established redevelopment areas) that have tax-increment financing powers to implement TOD.

STRATEGY 2C - Financing for private sector development

Implement a State financing program to facilitate the private sector development of TOD, including:

a) a capitalized revolving loan fund to provide 'gap financing' for TOD implementation; and/or,

b) a loan guarantee or mortgage insurance fund to increase the ability of mixed-use projects to obtain private financing.

STRATEGY 2D - Use of State transportation funds for TOD

Allow greater flexibility in the use of State transportation funds to implement TOD.

STRATEGY 2E - Expand 'Location Efficient Mortgage' Program

Consider assisting the expansion of an existing private-sector 'Location Efficient Mortgage Program' outside Southern California and the S.F. Bay Area (where it currently is being implemented).

IV. Descriptions of State TOD Implementation Strategies

The following section provides fairly detailed descriptions of fourteen strategies that members of the two Advisory Committees to the Statewide TOD Study have recommended that the State should consider implementing to encourage and facilitate the broader implementation of transit-oriented development in California. These strategies are designed to provide assistance to local jurisdictions, transit agencies, and developers of TOD in overcoming specific implementation barriers identified in this process.

For each strategy, the following types of information are provided:

- The number, heading, and proposed title of the strategy.
- **Brief Description of Strategy** – summarizes information about the overall purpose and objective.
- **Background** – provides information on the need for the strategy and other relevant information.
- **State Actions** – lists the types of activities that the State could undertake to implement each strategy.
- **Strengths** – anticipates the potential positive aspects of implementing each strategy.
- **Issues** – lists some of the overall political and other 'issues' potentially involved with each strategy.
- **Policy Steering Committee ratings** – average ratings of committee members regarding the benefits that may result from implementing each strategy, their practical feasibility, and timeframe involved.

State TOD Strategy Area #1: POLICIES and IMPLEMENTATION PROGRAMS

STRATEGY 1A - Improved coordination of local and regional land use and transportation planning

Encourage local and regional agencies to more closely coordinate land use and transportation planning and development.

Brief Description of Strategy
In this strategy, the State would increase its efforts to encourage local and regional agencies to more closely coordinate land use and transportation planning and development through the activities listed under ”specific actions” below. The State should encourage local and regional agencies to work more closely with one another, and to coordinate with the State as a resource.

This strategy is intended to improve coordination between State departments as well as among State, regional, and local agencies, including Regional Transportation Planning Agencies, transit agencies, local governments, and other local and regional groups. It also involves encouraging local jurisdictions to develop plans and programs that link housing, jobs, and services in a coordinated way. The State should also identify and obtain information on examples in California and the U.S. of successful land use and transit coordination, and provide information about those efforts.

Background
Local jurisdiction and transit agency staff and other implementers that were interviewed for this study consistently reported that one of the major barriers to the broader implementation of TOD is a lack of effective coordination among the many local and regional agencies involved in planning and implementing land uses and transit systems. In some areas of California, transit agencies have taken a leadership role regarding land use and transit coordination; and in other cases, local jurisdictions are taking the lead. In just a few areas of California, there is effective and efficient coordination among many of the agencies involved with transit-oriented land use planning and implementation (San Diego is one good example, as well as parts of the S.F. Bay Area). However, in most places this level of coordination is not occurring in a broad or consistent manner.

Specifically for TOD (in comparison with some other ‘livable communities’ strategies), there is a practical need to locate transit-supportive land uses in the same vicinity as existing or planned transit systems. However, to be successful, this requires a high level of coordination between local governments and transit agencies

in planning, placing, designing and implementing transit systems and land use development. Often, major new transit routes are sited along existing road corridors or freeways because of the comparative ease and lower cost of obtaining right-of-way. However, this creates transit systems that do not necessarily connect major employment centers. Therefore, clusters of higher-density housing, shopping centers, or other activity centers, opportunities to increase the effectiveness and efficiency of land use and transit projects by linking destinations are often lost.

According to a report published by the National Transportation Research Board (TRB): "In the long run, if lasting and effective transportation improvements that act as a permanent, positive force for livability are to be achieved, then they must take place within the context of an overall land use policy designed to further the preservation and revitalization of dense, lively town centers as well as the creation of new nodes near public transportation. Such a policy can nurture initiatives that cluster activities around transit hubs, provide opportunities for short commutes and easy walking, promote alternative transit use, and avoid the wastes of energy, land, and the environment that sprawl creates."

State efforts: There are several existing State efforts designed to help improve the coordination of land use and transportation planning. One is the creation of an 'Office of Community Planning' by the California Department of Transportation (DOT) focused on such issues. This office recently began providing grant funds and technical assistance to local jurisdictions and other transportation agencies to improve coordination. (See Chapter 7 for more information on this program.)

Other State departments, such as the Housing and Community Development Department (HCD), Governor's Office of Planning and Research (OPR), Office of the Treasurer and State Technology, Trade and Commerce Agency (TTCA), also provide financial and/or technical resources for implementing land use strategies. HCD provides significant funding for housing implementation through its Jobs/Housing Balance and other programs. OPR offers guidelines and assistance to local governments on updating General Plans and other land use planning tools. And the TTCA's Main Street Program offers in-depth technical assistance regarding the preservation and renovation of downtown areas. However, none of these programs is specifically focused on transit-oriented development, although each could certainly support that objective.

Local and regional efforts: There are several important land use and transportation coordination efforts underway in various parts of California. For example, during the past several years, the San Francisco Bay Area Rapid Transit District (BART) has been actively working with local jurisdictions to develop land use plans for station areas. Each year, BART funds and coordinates the preparation of at least three 'comprehensive station plans' that include transit station access. In the San Francisco Bay Area, the Metropolitan Transportation Commission (MTC) annually grants $9 million to local jurisdictions for 'livable community' land use plans and projects. This amount was recently increased to over $25 million annually. The San

Diego Area Council of Governments (SANDAG) recently released a major regional plan ('TransitWorks') that promotes the closer coordination of land use and transit plans and investments.

Specific Actions:
In this strategy, the State would:

- Provide information, coordination, and technical assistance to encourage improved local and regional coordination of land use and transportation planning, development, and related activities.
- Identify areas of California that have demonstrated effective leadership in coordinating land use and transit planning and development at the regional, community, and local levels. Obtain information on how that coordination took place, who the important participants were, and the activities involved.
- Provide information on model 'case studies' of land use and transit coordination to other parts of California, including: funding sources that were used, agencies involved, and the benefits that resulted from the coordination.
- Encourage improved land use and coordination efforts through 'memoranda of understanding' (MOUs) and other cooperative efforts.

Strengths

- There is an important role for the State in encouraging local and regional agencies to improve the coordination of land use along with transportation planning and system development.
- Such coordination could significantly improve the efficiency of the State's investment in public transit systems and service, reduce environmental impacts, and streamline project delivery for land use and transit projects.
- Local and regional agencies already plan and develop land uses and transit systems; this strategy would encourage them to do so in a more coordinated manner.
- The State can provide important information, coordination, and other resources not currently available to local and regional agencies.

Issues

- Local and regional authority over land use and transportation decisions is closely guarded.
- The State currently does not have significant authority over coordination between land use and transportation agencies in California.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

STRATEGY 1B - Use and sale of State land for TOD

Facilitate the use and sale of State-owned land near major transit stations for TOD.

Brief Description of Strategy

This strategy involves revising current State procedures and legal requirements regarding the use and/or disposal of State land near major transit stations in order to facilitate the development of TOD. The State should revise its processes for disposing of excess State lands in order to facilitate the implementation of TOD by local agencies and groups. In addition, the State should also allow the use of State-owned park-and-ride lots and other underutilized State land for TOD if they are located within one-fourth to one-third mile of major transit stations.

Background

The Department of Transportation and other State agencies own 'excess' and/or underutilized land located near transit stations that could potentially be used as sites for TOD. There is interest by some local governments and transit operators in accessing State land for TOD purposes. Some of these parcels are 'excess' and may be sold. Other State parcels may be under-utilized as storage or surface parking lots; this land potentially could be more effectively used for TODs.

Regarding excess parcels:

State land disposition laws require State agencies to offer the property for sale and sell it to the highest competitive bidder (except in certain cases, as described below). This policy, however, can become a barrier to TOD implementation if a parcel is sold to a buyer who is not interested in developing it in a transit-supportive way. Local zoning for many sites near major transit stations often allows auto-oriented retail uses that are not consistent with efficient transit use, such as 'big box' retail outlets surrounded by large surface parking lots, fences, and other barriers.

Current State law provides an exception to the requirement that excess parcels be sold through competitive bid, as follows: if a local jurisdiction or agency (in which a parcel is located) wishes to use a State-owned parcel for creating affordable housing, parks, or several other specific purposes, they must be given the opportunity to purchase the parcel.[LXXXIV]

Regarding underutilized parcels:

The State Department of Transportation manages a number of State-owned surface park-and-ride lots, some of which are near major transit stations. Some of these are not being used to their full capacity, and may be better used for TOD. Heavily-used

[LXXXIV] Section 16.03.05.00 of the California Department of Transportation's "Right-of-Way Manual," states: "Before any excess real property, except surplus residential property, is offered for sale to the public, it must be offered for sale or lease to local public agencies, housing authorities, or redevelopment agencies within whose jurisdiction the property is located. (per California Government Code Sections 54220, et. seq.)

parking lots would be more efficient for TOD if they were converted to structured parking. This would also reduce the barriers that large expanses of surface parking create for pedestrians.

Specific Actions
In this strategy, the State would implement the following:

- Establish a policy and process to prioritize the use and disposition of excess and/or underutilized State-owned land for TOD if it is within one-fourth to one-third mile of an existing or planned major bus, rail, and/or ferry station.
- Inventory State parcels, including park-and-ride lots and excess right-of-way that are located within one-fourth to one-third mile of existing or planned major bus, rail, and/or ferry stations. Establish a process for consultation with local governments and transit districts on the future use of that land for TOD.
- Propose legislation to change current State law (Government Code Sections 54220, et seq.) to require State departments to first offer State land that is located within one-fourth to one-third mile of an existing or proposed major bus, rail, and/or ferry transit station to local agencies before advertising to bidders on the open market. Ensure that such a revision complements the law's existing priority for affordable housing and parks in the disposition of State land.
- Consider offering local agencies flexible options for paying for land that is purchased under this strategy, recognizing that they may not have sufficient funds available at the time the parcel is offered for sale.

Strengths
- State-owned land near major transit stations can be a valuable resource for TOD and/or for transit-related structured parking.
- Many TOD projects today require some form of public agency participation to make them financially viable.
- The value of this sizable existing State land can be leveraged without requiring additional legislative budget authority.

Issues
- Laws, rules, and procedures for the disposition of State lands are complex.
- The active cooperation and involvement of local governments will be required to make this strategy effective.
- The State may not be willing to relinquish the use of certain parcels because the land may be needed for other important purposes.
- Converting surface parking lots to structures can be very expensive.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

STRATEGY 1C: Facilitate local review and approval processes.

Strategy 1C(1) - CEQA processes in relation to TOD

Coordinate a study of California Environmental Quality Act (CEQA) processes and requirements in relation to TOD.

Brief Description of Strategy
This strategy involves convening a task force to explore potential impacts of CEQA on the implementation of TOD. This task force would develop and recommend strategies, if any, to appropriately reduce barriers in a manner that is consistent with the intent of CEQA for full assessment, disclosure, and public participation.

In addition, the State would obtain examples of instances in which effective and accurate CEQA analyses were prepared for TODs that included community-wide and regional benefits and impacts in addition to site-specific impacts. The State would share such information with consultants, developers and public agencies.

Background
When compared to conventional 'sprawl' development, TOD can significantly increase environmental benefits within a community or region. However, local development review processes typically do not accurately account for those benefits when assessing individual projects (please see discussion regarding Strategy 1C(2) below).

The California Environmental Quality Act (CEQA) requires that the potential impacts of proposed developments be assessed and reported, and that opportunities be provided for public participation in this process. In relation to transit-oriented development, some perceive that CEQA procedures are often a barrier to implementing TOD. One of the main reasons for this perception is that CEQA can provide an opportunity for legal challenges that can delay or even stop TOD projects. This is complicated by the fact that many TODs are proposed within areas that are surrounded by already-established communities. Residents within these neighborhoods often oppose new development projects, especially if they involve densities that are somewhat higher or are of different design compared to existing land uses.

However, it is not clear that CEQA is a primary barrier to TOD implementation, or whether there are other factors involved that could be mitigated without changing CEQA. In particular, some believe that the CEQA process has served as an unintended barrier to the implementation of TOD because the analysis required by CEQA often does not accurately account for the benefits of TOD. Procedural changes to CEQA would be both technically and politically difficult; therefore, this issue would need to be

studied carefully prior to taking any action. It would also be essential that any changes to CEQA safeguard citizen participation opportunities in the development process as well as enhance, rather than compromise, environmental protection.

During this study, both of the advisory committees have discussed this issue in depth. A variety of approaches and strategies have been considered as possible options for addressing concerns about possible impacts of CEQA on TOD. In every instance, there was strong support for CEQA's importance in assessing potential impacts from projects and for the public input that CEQA requires in local development decisions. Both committees agreed that conducting an objective study of CEQA processes to determine what, if any, changes may be indicated is the preferred way to address this issue. Therefore, a study of this type is suggested, with the clear understanding that it would be an objective analysis, include a representative group of stakeholders, and have no pre-determined conclusions that either the procedures or standards in CEQA should necessarily be changed.

Actions

- The State would convene a broadly representative task force to further study the issue. Such a task force would be comprised of public agencies, citizens, members of the development industry, and environmentalists to conduct a comprehensive assessment of how CEQA currently affects TOD.
- This would be an objective analysis, with no pre-determination that the procedures or standards required by CEQA should necessarily be changed.

Strengths

- Changing CEQA requirements or processes could increase the efficiency and certainty of local land use entitlement process, which could increase the rate of implementation of TODs in California.

Issues

- Changing CEQA in regard to TOD could potentially reduce citizen participation in local land use entitlement processes.
- Changing CEQA for TOD could also be perceived as setting a precedent for avoiding the requirements of the State's environmental law, which could open the door for other "loop holes" to be created.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

Strategy 1C(2) - Improved models and analysis tools

Encourage the development and use of analysis and decision-making tools that more accurately account for the benefits and effects of TOD in local land use review and approval processes.

Brief Description of Strategy

This strategy targets State involvement in the development and use of improved land use, transportation, and economic analysis and decision-making tools to assess benefits and impacts of TODs. The State should encourage the use of improved data in various types of analysis and decision-making tools, including those used to analyze individual projects, community-level analysis tools, and regional-scale models. And, the State should also help disseminate information about the availability of improved tools and encourage their adoption and use.

Background

Cities, counties, and consultants typically analyze the transportation, economic, and environmental effects of proposed land use and transportation projects using local and regional transportation models and other analysis tools. The accuracy of such tools is important, since the estimates they produce typically become the basis for complying with CEQA, assessing vehicle traffic impact fees, and identifying other project-related mitigation measures.

Typically, analyses are based on site-specific impacts rather than accounting for community-wide benefits. Such analyses often indicate that a specific TOD may increase automobile traffic levels in a site above what would be created by lower density development. However, there are potentially significant environmental and social benefits on community-wide and regional scales that can result from a network of concentrated activity centers that are connected by transit. These benefits, such as reduction in overall automobile travel and air pollution, are not taken into account during site-specific project analyses.

Moderate and high-density and mixed-use development (such as are typical in TOD) can result in higher levels of localized vehicle traffic within the immediate area (because there are more housing units, employees, or services in a smaller area). However, the analyses conducted during local project approval processes often do not appropriately credit the potentially significant benefits of TOD, such as: better access to transit service, improved pedestrian facilities, the ability to walk from one activity to another, as well as the overall benefits of TOD on a community-wide or regional level. As a result, TOD project proponents are often required to pay vehicle traffic mitigation fees and other offsets at the same rates as projects that do

not contribute similar benefits.

Models and other analysis tools that are currently in common use do not accurately account for the benefits of TOD in reducing rates of automobile use, and therefore improved tools need to be developed. Most of the analysis tools and models currently in use do not contain up-to-date or accurate data that accounts for the benefits and impacts that both TOD and infill development have in shifting travel away from automobiles to transit and pedestrian travel. In addition, there is also a lack of solid data on TOD and infill development in economic analysis tools.

The goal of this strategy, therefore, is to update or create analytical and decision-making tools that are capable of more accurately assessing site-specific as well as community-wide benefits and impacts of proposed projects. Data for these analysis tools must be based on more up-to-date, accepted research regarding the travel, air quality, infrastructure, and other impacts and benefits associated with TOD. (Please refer to strategy 1C(3) below.)

Planning tools: In recent years, several new computer-based planning tools have been developed or are under development. Several of these use Geographic Information System (GIS) technology to produce maps and information that graphically describe and quantify various impacts that different proposed land uses and development proposals and scenarios may have. Several of these also display visual images of different development alternatives in order to help planners and citizens visualize the possibilities that are being considered, and to better understand the impacts and benefits that projects may have on the community.[LXXXV]

Actions

- Survey and assess transportation models and land use analysis tools that are currently in use.
- Identify significant gaps in the features of available tools that should be filled, or sub-optimal assumptions or methodologies used.
- Promote and fund activities to address these deficiencies.
- Develop guidelines to help local communities select analysis tools that are the most credible and useful.
- Determine the range of potential uses for such tools and develop methods, where appropriate, to integrate them into existing processes.

[LXXXV] Two recently-developed planning tools that are being used in several communities in California include: "INDEX" and "PLACE3s" ("Planning for Community Energy, Economic and Environmental Sustainability"). These tools are described in more detail in the Appendix Volume to this report. Other efforts to develop GIS-based land use analysis and planning tools are also underway, including programs at the University of California at Davis and Berkeley, as well as the Mineta Transportation institute at San Jose University.

(Examples include CEQA review, General Plan updates, and the development of station area specific plans and community plans.)
- Disseminate information about available tools and encourage local communities to use them. Also, examine the use of Internet technology as a means of cost-effective information dissemination.

Strengths
- This strategy would improve the accuracy of assessing the impacts and benefits of TOD as part of local approval processes.
- Could result in easier review of TOD projects, and may also result in reduced traffic mitigation fees for TOD implementers due to more accurate data regarding travel effects.
- Would improve the quality and also potentially reduce the timeframe of local citizen involvement and land use approval processes.

Issues
- Dependable and accepted data on TOD impacts and benefits is currently limited; additional data collection and research are needed.
- Funding and time to conduct that research is necessary before more reliable data can be developed to improve analysis tools.
- Time, effort and funding are needed to improve or develop new analysis tools.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium to High**
What is the timeframe for implementing this strategy?	**2-3 years**

Strategy 1C(3) - Improved data on effects and benefits of TOD

Fund and disseminate research to develop reliable data on the effects and benefits of TOD, especially regarding transportation and economic changes. These data should be incorporated into analysis and decision-making tools.

Brief Description of Strategy

In coordination with universities, transit agencies, local governments, and other interested parties, the State should define and fund up-to-date research that explores the benefits and impacts of TOD. Physical impacts (e.g. travel behavior) and economic impacts (e.g. costs, market performance) are of special priority.

It is now possible to obtain more reliable data on these effects compared to the past because of the recent construction of additional TODs in California. The State should also encourage the incorporation of this improved data into local and regional analysis and decision-making tools that are used to assess impacts and benefits of development. In this way, these tools would be able to more accurately account for the transportation and economic effects of TOD.

Background

In order for a new practice such as TOD to become a 'mainstream' product, credible information on its performance is needed. The State's leadership in developing and disseminating information about the practice and performance of TODs is critical to obtain comprehensive, objective, and credible information that is needed for accurate assessment and implementation of proposed TOD projects in California.

There is wide agreement in the academic literature and among practicing professionals regarding the need for more up-to-date and dependable information about the effects and benefits of TOD. As was discussed in Chapter 3 ("How Does TOD Affect Travel and Transit Use?"), research conducted in the past has, unfortunately, not been as conclusive as desired regarding the effects that TOD has on travel behavior, transit use, market opportunities and costs, and other related effects. Therefore, in order to be of practical use, new research is needed to produce data that are both accurate and in a form that allows it to be accepted and implemented.

One of the main reasons that transportation analysis tools and models do

not contain more accurate data on the benefits and impacts of TOD is a current lack of widely accepted or up-to-date data. One barrier in particular is the lack of specific 'trip generation rates' for TOD in the Institute of Transportation Engineers' *Trip Generation Manual*, the reference source commonly used to estimate vehicle trip generation rates of various types of land uses in travel models. There is also a need for more accurate and recent data on the economic costs and benefits of TOD.

One of the main reasons for this lack of good data is that, until recently, there have been few TODs to study in California. However, there are currently a number of recently developed TODs that can be studied, so it is now much more feasible to conduct such research in a more accurate and conclusive manner.

Some of the specific information on TOD that is needed to understand the benefits and impacts of proposed projects includes:

- How do TODs function regarding travel and economic effects in different types of areas, such as urban centers, growing suburbs, or small rural communities? Are there differences in these settings?
- What are the trip generation, energy, and environmental benefits and impacts of TOD at local, community, and regional levels?
- What are the costs of building TOD; and what has been the market performance (i.e. absorption rates, lease rates)?
- How much and what type of public funding may be needed to effectively promote TOD?

Actions

- Secure State funding sources to collect data on travel, economic, and environmental performance of TODs in California.
- Identify and prioritize a specific list of data that is needed.
- Develop a program to provide this data in a credible way.
- Design a process for effectively disseminating the data, and to include it in analysis tools (per Strategy 1.C(2) above)

Strengths

- A research and model improvement program is essential to the successful implementation of TOD in California.
- The State can provide leadership in developing and disseminating more objective information about the performance of TOD, including costs, benefits, and impacts, to help with local and regional decision-making processes.
- It is now be possible to obtain data compared to the past, due to the recent construction of TODs in California that can be studied.

Issues

- Reliable and conclusive data will not be easy to obtain on the performance of specific aspects of TOD. Obtaining accurate financial information about private development projects is also difficult because some of the information is often 'proprietary'.
- In order to be useful, research must be designed and conducted in such a way that the results will be accepted and implemented.
- It is important to involve a cross-section of interested parties in the design and execution of a research program.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium to High**
What is the timeframe for implementing this strategy?	**<2 years**

LANI

Parsons Brinckerhoff and the California Department of Transportation

The NoHo (North Hollywood) bus TOD has promoted economic development, increased pedestrian activity, and improved the general attractiveness of the area

STRATEGY 1D - Technical assistance and information

Develop and disseminate practical information and technical assistance on TOD statewide, including:

- **i) Create and fund a statewide information "clearinghouse" on TOD implementation.**
- **ii) Sponsor conferences, courses, and other outreach efforts.**
- **iii) Fund 'circuit riders' to provide technical assistance to local agencies and developers regarding the specifics of TOD implementation.**

Brief Description of Strategy

This strategy is concerned with the development and dissemination of practical information to various stakeholders involved in planning and building TOD, including: local officials, transportation and planning professionals, private citizens, property owners, developers, lenders, and others. The strategies for disseminating information should be diverse in order to meet the unique needs of each audience.

Background

Many observers agree that there is a significant need for more information on various practical aspects of implementing TOD. Among those who were interviewed for this study, there was a strong desire for more and better-quality information about how to implement TOD, such as: design strategies; development costs; sources of funding and financing; local government approvals; project delivery; and 'lessons learned' from others.

In order for a new practice (such as TOD) to become a mainstream product, credible information must be available from qualified, dependable sources. The State is capable of providing comprehensive, objective, and credible information needed to assess and implement TOD at the local and regional levels.

Actions

This strategy involves some or all of the following specific activities:

i) Create and fund a statewide information "clearinghouse" on TOD implementation.

The State would develop an information "clearinghouse" designed to serve the diverse needs of the multiple stakeholders involved in TOD. The clearinghouse could make use of practices that would enable it to effectively disseminate information (including the use of the Internet, etc). Another of the major needs identified in this study to overcome TOD implementation barriers is the development and use of analytical modeling tools that can more accurately assess the benefits and impacts of various types of proposed land use development projects. These tools could also be distributed via a statewide "clearinghouse".

ii) Sponsor conferences, courses, and other outreach efforts

Building on the results of this TOD Study and related efforts, the State would partner with organizations that have credibility with various stakeholders to offer conferences, workshops, and courses on topics, including TOD. The State would also coordinate the development and distribution of information, including articles in journals, presentations at conferences and conventions, and through other venues. Trade organizations for TOD builders and lenders, as well as local government and transit agency associations, are examples of prospective partners in this effort.

iii) Fund 'circuit riders' to provide technical assistance to local agencies and developers regarding TOD implementation

Staff of local governments, transit agencies, and land use developers often lack the practical experience necessary to successfully develop and implement complex TOD and transit 'joint development' projects. There is a need for experienced and knowledgeable technical experts to provide assistance to facilitate the implementation of TOD at the local level. This program involves establishing a "TOD Circuit Rider Program" administered by the State to provide targeted expertise to local governments and developers for TOD implementation.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium to High**
What is the timeframe for implementing this strategy?	**<2 years**

State TOD Strategy Area #2: FUNDING for PLANNING and IMPLEMENTATION

STRATEGY 2A – Funding for local agencies to plan and implement TOD

Strategy 2A(1) - Funding for local TOD planning

Develop and provide funding to local jurisdictions to create plans near major transit stations, and to remove existing barriers to TOD implementation in local codes. Such funding would be based on the coordination of land use, transit, housing, jobs, and services in local plans and programs.

Brief Description of Strategy
This strategy provides State funding and technical assistance to local agencies to support the development, adoption, and implementation of transit-supportive plans and implementation programs. Funding would be based on whether localities are coordinating land use, housing, and transportation in their plans and programs, and that there is consistency among various elements of local General Plans.

Background
For a successful program, it is important that transit-supportive policies and standards be included at all levels of planning. Local governments typically develop plans and programs that pertain to TOD, including: General Plans, community and station area plans, zoning and subdivision codes, specific plans, master plans, special planning districts, etc. General Plans (required by State law) establish the amount, type, and location of land use development. Zoning and subdivision codes set forth the details about how land may be used. 'Specific plans' and community plans focus on particular areas within a community.

The changes this strategy supports would help remove local barriers to TOD implementation, which can be challenging. To be successful, TOD requires the ability to mix land uses, to include moderate and higher densities, and to reduce the number of parking spaces and/or provide structured parking garages. In addition, within TODs there is typically an orientation of buildings and public areas to focus on pedestrian and transit use. Addressing the unique challenges of TOD at the local level will help reduce barriers and help expedite local development entitlement processes.

TOD specific plans, master plans, special planning districts, and transit overlay

zones are some of the more sophisticated planning tools that local agencies can use for areas around transit stations. While all of these techniques are important, the creation of specific or community plans for transit station areas can be particularly beneficial for implementing TOD. These planning tools focus information, resources, and citizen input where it can be most effective and useful - during the early stages of the land use planning process. However, all these tools require a large amount of technical and community resources to develop, adopt, and implement - which is costly for local jurisdictions. Once they are in place, these tools can substantially improve the efficiency and certainty of local development review and permitting processes for TOD implementation.

Actions

- Identify appropriate source(s) of State funding.
- Determine eligible planning activities and applicants for assistance.
- Determine the most effective and efficient way to deliver the program, including how it relates to existing State grant programs that promote 'livable communities' strategies.
- Coordinate design of the program with appropriate State departments, regional agencies, transit agencies, and local governments.

Strengths

- This program would directly address a major barrier to TOD development.
- State funding assistance will be an incentive for TOD implementation at the local level.
- Effective TOD planning can be effective in streamlining local review and approval processes, which lowers uncertainty and costs for TOD.

Issues

- State involvement in local TOD planning must be conducted with care to avoid the appearance of interference with local land use control.
- A program such as this is likely to achieve substantial local interest.
- It is important to design and implement the program to obtain maximum benefit from limited available State resources.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

Strategy 2A(2) - Funding for local agency TOD implementation

Develop and provide funding to local agencies for TOD implementation and to provide development incentives. Funding would be based on local adoption and implementation of transit-supportive planning, zoning, and/or other programs.

Brief Description of Strategy

This strategy involves developing and providing State funding to local agencies for TOD implementation, such as for infrastructure improvements, parking structures, and similar costs. The State would also establish a funding program to reimburse local agencies for a portion of their costs incurred to encourage the implementation of TOD through incentives, such as: reducing typical local development fees, charges, taxes, and infrastructure costs. State funding would be targeted to local areas that already have TOD plans and programs in place.

Background

Depending on local conditions, TOD typically involves features that can increase development costs, compared to conventional low-density development, such as: typically complex and lengthy local government entitlement processes; higher-cost structured parking; and infrastructure that can be more costly in infill locations. Alternatively, in some ways, TOD can decrease costs and/or enhance economic return through potentially lower parking requirements, providing more leasable space due to higher densities, and making better use of existing infrastructure capacity.

Regardless of whether the financial aspects of a particular project are a net “plus” or “minus” for TOD as compared to ‘sprawl’ development, many banks and developers perceive TOD to be a riskier and more innovative investment than conventional development. This means that banks and developers often require a higher rate of return on their investment in order to be willing to take this “risk”. Therefore, public financial assistance of some sort is often necessary to finance TOD projects. This is particularly true when a project is among the first TODs within a community or station area dominated by more conventional development patterns.

There are several mechanisms that local agencies can implement to help make the economics of a TOD project more attractive to builders and financial institutions. These may include (but are not limited to): reductions in property tax for a specified amount of time; reductions in typical local development permit fees and charges; assistance in paying

for infrastructure impacts (e.g. roads, traffic signals, water system upgrades); and assistance in providing for parking. Incentives in any of these areas could positively influence a prospective developer or financial institution to invest in TOD.

Actions

- Identify and allocate State funding and staff to develop and manage a local TOD implementation funding program.
- Determine an appropriate approach for allocating the State's resources.
- In cooperation with local agencies and stakeholders, design a program that provides the necessary flexibility to significantly affect local development processes.
- Develop program requirements and criteria to ensure that the State's resources effectively result in TODs that would not otherwise be built.

Strengths

- Public funding participation is important and effective in implementing TOD on a broader scale.
- A cooperative approach among State departments, regional agencies, local governments, transit districts, developers, and other interested groups is necessary to design and implement a functional and effective program.

Issues

- The program will require funding at a time when State discretionary resources are scarce.
- Program criteria should provide incentives for desirable TOD projects that would not otherwise be developed without State assistance.
- Local demand for this program may exceed State resources, making it essential to develop a fair and practical system of allocating available funding based on effective criteria.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

Strategy 2A(3) - Funding for TOD Demonstration Projects

Fund TOD demonstration projects that 'showcase' certain innovative features (such as particular design characteristics; mixed land uses; projects in rural communities; use of innovative financing; coordination among local groups; etc.)

Brief Description of Strategy

This strategy involves developing and providing State funding for TOD projects that demonstrate innovative, effective implementation strategies. Such a program would help develop and test methods for implementing TOD, and for overcoming barriers. The program would also include evaluations to measure the benefits of the demonstration projects and to establish 'best practices' that could be applied to other areas.

Background

Examples of the types of TOD demonstration projects that might be funded include:

- TODs with innovative design features, such as: quality pedestrian facilities, squares and other gathering places, kiosks, and user-friendly transit information;
- Development of TOD in rural communities;
- The provision of social and other public services in coordination with transit, such as child care facilities, public libraries, government services offices, etc.;
- The use of innovative financing, funding sources or techniques that have not been previously used; and/or
- Coordination of land use development with new types of transit service, such as Bus Rapid Transit, car sharing programs, etc.

Actions

This strategy would include the following activities:

- Identify and allocate a funding source for the program.
- Establish application and project selection criteria, considering factors such as:
  - Demonstration of new models for development;
  - Building partnerships (e.g. with transit agencies, TOD developers, local governments, regional agencies, etc.); and
  - Replicating the practice demonstrated in other locations without the need for additional subsidy.
- Coordinate among State departments, as well as with local jurisdictions, transit agencies, and other public and private groups to leverage available funding, information, and staff resources.
- Develop and implement methodologies and procedures for monitoring and reporting on the performance of projects.

Strengths

- This program would provide the State with an important way to encourage innovation and creativity, and to resolve identified barriers to TOD by providing funding and reducing risks for program participants.
- Documenting and disseminating successful examples is one of the most effective ways of overcoming barriers to innovation.

Issues

- Demonstrating and objectively documenting the performance of new strategies takes time; it will be a several years before demonstrated results will be available.
- This program should be integrated with other State TOD implementation strategies, especially those that provide financial assistance for TOD, to add value rather than duplicate activities.
- All types of areas in the state should be included in the demonstration program, including urban, suburban, and rural areas.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

Lennertz and Coyle Associates/Seth Harry

Concept illustration for phase II of the Pleasant Hill TOD

Strategy 2A(4) - State "Housing Incentive Program"

Create and fund a State-level 'Housing Incentive Program' to encourage the development of moderate to higher-density housing near major transit stations.

Brief Description of Strategy
This strategy would provide incentives to local governments for locating and implementing medium to high-density housing within easy walking distance of existing or planned major transit stations. (The housing could be built by private developers, non-profit housing agencies, or others.) Specific criteria for awarding the funds would be developed in coordination with local and regional groups and agencies. Linking transportation and land use decisions in this way with housing can help maximize public investments in transit infrastructure and increase transit use, while at the same time helping to address California's housing shortage.

Background
The model for this strategy is the 'Housing Incentive Program' (HIP) that the S.F. Bay Area's Metropolitan Transportation Commission (MTC) initiated early in 2001. This program is funded by State and Federal transportation programs.[LXXXVI]

MTC's HIP program, in turn, was based on a program previously developed by the County of San Mateo, the 'Transit-Oriented Development Incentive Program'. The MTC program grants $1,500 per bedroom to local governments as an incentive for allowing the construction of new housing located near quality public transit. The housing must have a minimum density of 25 units per acre or more. In the short time that the MTC's HIP program has been available, demand for funds has far outstripped available resources. MTC announced the availability of $9 million early in 2001, and received $46 million in requests in its first solicitation. As a result, in 2002, MTC significantly increased the funding available for this program. (See chapter 7 for more information.)

At the State level, a 'Jobs-Housing Balance Program' is also intended to spur housing construction by providing incentives to local agencies. The California Department of Housing and Community Development (HCD) started granting funds for this program in 2002. It also provides financial grants to local jurisdictions for allowing new multi-family housing units, affordable housing, and infill development. Jurisdictions in counties with the highest job growth rates in the state, such as the S.F. Bay Area,

[LXXXVI] Primarily, Federal Congestion Management Air Quality (CMAQ) and Surface Transportation (STP) funds.

Southern California, San Diego, and Sacramento, would receive the largest portions of funding.

Actions

- Determine the level of funding required for a State-level program modeled after MTC's Housing Incentive Program.
- Identify an ongoing source of funds for the program.
- Set up an administrative process to allocate the funds, or identify an existing process that could be used.

Strengths

- This program directly links transportation, land use, and local incentives for higher-density housing within TODs.
- It is modeled on successful local and regional programs

Issues

- Grants may not be sufficient incentive to encourage local governments to allow construction of higher-density housing near transit stations.
- These grants are one-time funding allocations, which would not cover annual costs of providing ongoing city services.
- Demand for a statewide funding program of this type could exceed available resources.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

STRATEGY 2B - Targeted 'tax-increment financing' for TOD

Adopt legislation to allow local jurisdictions and agencies to create special districts around major transit stations (outside established redevelopment areas) that have tax-increment financing powers to implement TOD.[LXXXVII]

Brief Description of Strategy
This strategy would provide significant local funding for TOD implementation by amending current State statutes or by creating a new statute to allow the creation of 'spot tax-increment districts' near existing or planned major transit stations. These districts would be located outside designated redevelopment areas. They would not have 'eminent domain' land acquisition authority.

Background
Redevelopment agencies have played important roles in the implementation of TOD in California, especially in downtowns and within inner city areas. Redevelopment agencies have provided significant financial support and also (in some areas) assembled property for TOD. However, many major bus, rail, and ferry transit stations are located outside the boundaries of designated redevelopment areas. Currently, tax-increment financing authority is only available within established redevelopment agency boundaries, which are allowed only in "blighted" areas.

Legislative change is needed to allow the formation of "TOD tax-increment financing districts" outside designated redevelopment areas. State statutes affecting the establishment of redevelopment districts limit their formation to so-called "blighted" areas - a condition that is not present at all major transit stations. This limits the ability to use tax-increment financing for development around many transit stops.

However, changing existing State redevelopment law is complex. The advisory committees to this study, recommend that - before any specific legislative approach is drafted - a statewide task force representing involved stakeholders would be established to discuss related issues and develop recommendations regarding specific implementation details. The membership, timing, composition, and staffing of such a task force would need to be considered and provided.

As recommended, this strategy does not include a key power that redevelopment districts typically have: the power of eminent domain (which is the legal ability of a public agency to require a property owner to sell property at "fair market value" if it

[LXXXVII] Tax-increment financing allows local agencies to spend the amount of the difference between property taxes on land before and after it is redeveloped (when its value is much higher than before) within the redevelopment district. This 'tax-increment' is often a substantial amount of money.

is needed for a public purpose. However, the use of eminent domain by public agencies in the past has been a highly political and controversial issue.

Actions

Establish a task force to examine possible legislative approaches regarding tax-increment financing authority outside established redevelopment districts for TOD implementation. This task force would investigate the potential "pros" and "cons" of providing a variety of authorities to local TOD Special Districts, including:

1. Allowing tax-increment financing authority;
2. 'Splitting' the tax-increment funds that result from development (through increased property tax revenues) with local jurisdictions so they also will directly benefit from the program; and
3. Enabling land purchase by transit agencies for TOD purposes that do not currently have this authority (but not through the use of 'eminent domain' powers).

Strengths

- Would not require direct State agency involvement in funding specific projects.
- Builds on and augments the 1994 Transit Village Act.
- Provides significant new local resources needed for TOD implementation.
- Delays immediate action by suggesting the involvement of a task force.
- Includes stakeholders in the process.

Issues

- This strategy requires new legislation.
- It involves a cost to the State due to the reduction of local tax funding for schools.
- Tax-increment financing for TOD may decrease local funding for other types of local services, such as police and fire protection, etc.
- Allowing tax-increment financing outside established redevelopment agencies may have a negative impact on those agencies.
- Assurances should be given to local agencies that they would receive a portion of any additional taxes generated by the program.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

STRATEGY 2C - Financing for private sector development of TOD

Implement a State financing program to facilitate the private sector development of TOD, including:

a) a capitalized revolving loan fund to provide 'gap financing' for TOD implementation; and/or,

b) a loan guarantee or mortgage insurance fund to increase the ability of mixed-use projects to obtain private financing.

Brief Description of Strategy

The State would select among several options to provide financial assistance to encourage the broader implementation of transit-oriented development by the private sector. Such development would be consistent with the definition of TOD provided by this study, and be located no farther than one-quarter to one-third mile from a planned or existing major bus, rail, and/or ferry transit station. Funding would be focused on the implementation of TODs that would not otherwise be built due to lack of sufficient available funding.

Two types of State TOD financing options may include:

1. A TOD revolving loan fund targeted to fill financing gaps for TOD implementation. Principal and interest payments to the revolving loan fund would be used to recapitalize the fund so that additional loans could be provided.

2. A TOD loan guarantee and/or mortgage insurance fund to encourage the private-sector financing of TODs, in which the State would provide credit enhancements for qualified private loans to finance economically sound projects.

Background

One of the barriers to implementing TOD is the difficulty that developers often have in obtaining financing for mixed-use projects. One reason for this difficulty is that established lending guidelines tend to be oriented toward single-use, auto-oriented land uses. Lenders are often reluctant to issue loans for mixed-use, transit-oriented projects whose risk profiles are challenging to evaluate because of their innovative features or locations.

Depending on local conditions, some features of the design or location of TOD can increase development costs, as compared to conventional low-density, single-use projects. These include: typically complex and lengthy local government entitlement processes; the need to provide expensive structured parking; higher costs of land if located within an existing urban area; and infrastructure that can be more costly for developers to provide, especially within older central city locations.

Regardless of whether the economics of a particular project are a net "plus" or "minus", TOD is widely perceived as a riskier investment than conventional development patterns. Therefore, banks and developers often need a higher return on their investment for taking this risk. Public financial assistance of some sort is often necessary to finance TOD projects, particularly when they are among the first TODs to be built within a community or a station area that is otherwise dominated by conventional development.

1. A State loan guarantee program would encourage private financial institutions to provide money for TODs by 'securing' those investments and reducing lender risk. This would have the added advantage of increasing the number and amount of loans that can be made because State funds would be highly leveraged by private investment. A loan guarantee program would require setting aside sufficient State funding to enable private financial institutions to issue loans, and may require additional funding if demand for loans exceeds minimum reserve amounts.

2. Establishing a direct State TOD revolving loan fund would require an initial capitalization as well as subsequent additions of funds, at least until the stream of principal and interest repayment becomes sufficient to support ongoing lending activity. Funds could possibly be provided by a combination of sources, including State transportation funds and/or other State or local revenue sources as available, eligible, and appropriate.

Actions

Specifics of this strategy that require further consideration include:

- Identify sources of funding and initial funding level;
- Identify a State entity to establish and administer the loan and/or loan guarantee programs;
- Establish administrative guidelines and procedures for a revolving loan and/or loan guarantee program, including:
  - Total amount that may be loaned annually;
  - Types and locations of TOD that would qualify for the program.
  - Equity contribution and minimum qualification requirements for borrowers;
  - Interest rate levels; and
  - Repayment terms, conditions, and requirements.

Strengths

- This strategy would directly target a major barrier to TOD implementation by providing State funds to finance the private sector development of TOD;
- Repayments to a revolving loan program would enable additional leveraging of new projects (as compared to grant programs);
- Establishing a loan guarantee program would allow even greater leveraging of available funds;
- A loan guarantee program could reduce administrative costs and risk, since actual loans would be made by private financial institutions.

Issues

- The number of jurisdictions with adopted TOD plans and ordinances may limit the range of funding eligibility;
- This program requires State funding, establishing an administrative process within State government, and on-going management of the program;
- State staff with experience making complex loans or loan guarantees would need to be identified and made available to manage the program.
- It may not be possible to use State transportation funds for a loan guarantee program without the enactment of enabling legislation.
- It may not be possible for the State to provide funding directly to private entities without the adoption of enabling legislation. Alternatively, State funds could be provided to local jurisdictions for distribution to private entities.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

STRATEGY 2D - State transportation funds for TOD

Allow greater flexibility in the use of State transportation funds to implement TOD.

Brief Description of Strategy
Several of the strategies recommended in this report require additional funding, and State transportation programs could be a potentially significant funding source for TOD implementation. This strategy proposes to increase the availability and use of State transportation funds to support the planning and implementation of TOD, consistent with eligibility.

Currently, it is difficult or impossible to use certain State transportation funding programs for TOD due to existing State law. In this strategy, the State would identify transportation funds that can potentially be used for TOD, and make them available for implementation. Changes to State law may also be needed to expand the ability to use State funds. In addition, the State would provide technical assistance to regional and local agencies regarding use of applicable funding programs.

Background
At the Federal level, there are now several types of Federal transportation funds that can be used for TOD and transit 'joint development' projects (several are summarized in Chapter 7). However, most of these require State and/or local matching funds, and currently it is not possible or very difficult to use many types of State transportation funds for TOD and/or transit joint development projects.

To help overcome obstacles to using State transportation funds for TOD, it would be useful to establish a State policy clarifying that TOD qualifies as a 'transportation purpose' to enable TOD implementation projects to receive eligible transportation funds, as has been done in several other states.

Two major ways to increase funding for TOD are:
1) Utilize existing discretionary authorities to fund more TOD through the use of existing transportation funding sources;
2) Create new sources of funding for TOD implementation.

Brief history:
The 1994 California 'Transit Villages Development Act' provides that: "A city or county establishing a district and preparing a plan pursuant to this article shall be eligible for available transportation funding."[211] However, this legislation did not make any specific transportation funding available for TOD implementation.

In 1997, the Federal Transit Administration (FTA) published a policy stating that transit 'joint development projects'[LXXXVIII] are considered 'mass transportation projects' which are eligible for funding under FTA capital programs, as long as they generate a payment or revenue stream for transit use and are located within 1,500 feet of a transit station.[212] This policy also states that: "FTA encourages transit systems to undertake joint development projects at and around transit stations, bus terminals, intermodal facilities and other transit properties."

Overview of Transportation Funding:
Increasing the amount and type of transportation funding for TOD planning and implementation requires identifying funds that are appropriate for TOD, and also providing qualifying matching funds. These considerations are reviewed below.

There are many types of transportation funding sources, each with specific limitations regarding the types of projects they can be used to implement. State and Federal eligibility requirements for transportation funds are quite complex.[LXXXIX] In some instances, projects that will help to implement TOD are eligible, but most are not.

Increasing the amount and type of transportation funding for TOD planning and implementation requires identifying funds that are appropriate for TOD, and also providing qualifying matching funds. Some of the main parameters that affect the ability to fund TOD using California transportation funds include:

- Similar to several other states, California has a constitutional limitation on the use of the State excise gas tax revenues, or the 'gas tax'. Article XIX of the State constitution limits use of gas tax revenues in the State Highway Account (SHA) to "…State highways, local roads, and fixed guideway facilities." [XC]

[LXXXVIII] According to FTA, 'transit joint development projects' are those that: "include a transit element; enhance urban economic development or incorporate private investment, such as office, commercial or residential uses; enhance the effectiveness of a mass transit project and the non-transit element is physically or functionally related to the mass transit project; or it creates new or enhanced coordination between public transit and other forms of transportation, or it includes non-vehicular capital improvements that result in increased transit usage in corridors supporting fixed guideway systems."

[LXXXIX] For a more complete discussion of transportation finance in California see *California Travels: Financing Our Transportation*, Legislative Analyst's Office, May 2000 http://www.lao.ca.gov/051100_cal_travels/051100_cal_travels_intro.html

[XC] The California State Constitution (Article XIX) restricts the use of state gasoline excise tax revenues for certain purposes. These funds may only be used to plan, construct, maintain, and operate public streets and highways; and to plan, construct, and maintain mass transit tracks and related fixed facilities (such as stations). The gasoline tax revenues *cannot* be used to operate or maintain mass transit systems or to purchase or maintain rolling stock (trains, buses, or ferries). http://www.lao.ca.gov/051100_cal_travels/051100_cal_travels_finance.html

- Governor Davis' 'Transportation Congestion Relief Program of 2000' (TCRP) provides significant additional new funds for transportation through 2007-2008. Some of the funding for the TCRP is provided by State sales tax on the sale of gasoline (as opposed to 'gas tax' revenue), and therefore is not subject to the limitations of Article XIX of California's Constitution. About 60 percent of the TCRP funds are allocated to specific transit projects, including several parking structures for TODs near major transit stations.
- The passage of Proposition 42 in March 2002, added a new State Constitutional provision (Article XIX B) that directs the use of all sales tax on gasoline towards transportation starting in 2008-2009. Under Article XIX B, 20 percent of the sales tax on gasoline will go towards public transportation, and could potentially be used for TOD implementation.
- It is currently possible to use State Public Transportation Account (PTA) funds for certain types of TOD implementation activities, such as planning and parking structures, if they are consistent with State law.[XCI] Other activities, such as providing grants to local governments for TOD implementation, may also be eligible for PTA funds.

Use of State Transportation Improvement Program Funds:
The State of California allocates transportation funds in several ways, including through the 'State Transportation Improvement Program' (STIP). The STIP is funded through a number of Federal and State revenue sources, and is implemented through a variety of programs. In some regions of California, STIP funds have been used to build several parking structures at existing and proposed transit-oriented developments, primarily through regional transportation planning (RTP) processes. Building parking structures with transportation funds is very useful, since the high cost of providing structured parking is one of the major obstacles identified in this study to TOD implementation.

Criteria regarding use of STIP funds include:

- Under current law, 75 percent of STIP funds are designated for the Regional Transportation Improvement Program (RTIP) for local and regional programs. The remaining 25 percent of STIP funds are allocated to the State for use in the Interregional Transportation Improvement Program (ITIP).[XCII] Because the largest portion of STIP funding goes to regional agencies, the greatest

[XCI] The use of PTA funds is not as limited as 'gas tax' revenues. According to state statute: PTA funds "shall be available, when appropriated by the Legislature, only for transportation planning and mass transportation purposes, as specified by the Legislature." - Public Utilities Code section 99310.5, subdivision (b). One-half of the PTA fund is allocated directly to local agencies and transit operators; the other half goes to the state and is used to fund intercity passenger rail, certain bus services, transit capital improvement projects, planning activities, research and training, and other transit-related activities.

[XCII] Chapter 622, Statutes of 1997 (SB 45, Kopp) created the current structure for decision-making and distributing STIP funds.

opportunities for using transportation funds for TOD through the STIP may be at the regional level. (Projects may also be jointly funded by the ITIP and the RTIP, and may also involve other funding sources.)

- Section 11 of the California Transportation Commission's STIP Guidelines (July 19, 2000) sets forth the broad standard that: "the Commission supports implementation and application for transportation management systems improvements to address highway congestion and to manage transportation systems…" As previously stated, TOD creates direct benefits in these areas, so its implementation would be consistent with this guideline.
- Section 19 of the STIP Guidelines establishes performance criteria for RTIPs, and some of the goals can be achieved in part by implementing transit-supportive development. These include changes in: vehicle and system operating costs; access to jobs, markets and commerce; the frequency and reliability of rail/transit service; and vehicle air pollution emissions.

Federal funding for TOD:
The Federal government had designated certain types of TOD infrastructure and planning activities eligible for the use of several Federal transportation funds, including: Transportation Enhancement (TE), Congestion Management/ Air Quality (CMAQ), and Surface Transportation Program (STP) funds. However, using these funds typically requires at least 20 percent project 'matching' funds from State or local sources, which can sometimes be difficult to provide.

In California, 100 percent of the CMAQ and STP funds are allocated directly to the regions. And, 75 percent of the State's available Transportation Enhancement allocation goes directly to regions for distribution. Currently, sixteen counties in California are implementing an optional local sales tax for transportation purposes, which is one potential source of matching funds for TOD. State sales tax revenues on gasoline (such as through Proposition 42) may also be a potential source of match funding.

Actions

- Establish a State policy clarifying that, due to its transportation benefits, transit-oriented development qualifies as a 'transportation purpose'. This is an important step to allow the use of various types of State transportation funding for TOD implementation.
- Consistent with funding eligibility, increase the use of existing transportation funding for TOD in State and regional Transportation Improvement Plans and Programs (RTIPs and STIP), and other State transportation programs.
- Provide information to local jurisdictions and transit agencies on how to obtain and use transportation funds to implement TOD.
- Track other innovative funding mechanisms that could be used to create new funding for TOD.

Strengths

- Providing transportation funding to implement TOD makes sense because of the increase in the efficiency and effectiveness of the State's multi-billion dollar investment in bus and rail services and facilities.
- Some Federal funds and certain State and local funds may already be legally eligible for TOD implementation.
- Providing additional State transportation funds for TOD allows the State to 'lead by example' by increasing funding commitments to TOD, and to provide required "match" for available Federal funds.
- The greatest opportunities for using transportation funds for TOD implementation may be at the regional level, since 75 percent of Transportation Enhancements and STIP funds are allocated to California's regions, as well as 100 percent of Federal CMAQ and STP funds.
- Many areas have adopted special local transportation sales taxes that could be used to provide required matching funds.

Issues

- If Federal funds are used to implement TOD, National Environment Protection Act (NEPA) analyses must often be conducted in addition to CEQA assessments. Also, Federal prevailing wage rates must be paid on construction, and other requirements also apply which can delay implementation and increase costs.
- Shifting transportation funds to TOD could reduce the amount of money available for other transit projects.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Medium to High**
What is the practical feasibility of implementing this strategy?	**Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

STRATEGY 2E - Expand 'Location Efficient Mortgage' Program

Consider assisting the expansion of an existing private-sector 'Location Efficient Mortgage Program' outside Southern California and the S.F. Bay Area.

Brief Description of Strategy

This strategy involves expanding an existing 'Location Efficient Mortgage Program' program that several private banks are currently operating in the Los Angeles and San Francisco metropolitan areas (the only two areas where it is currently available in California) to other locations. In order to expand this program, it would be necessary to enlarge a database containing extensive land use, transportation, and demographic data for the additional areas in which the program would operate.

State involvement in this strategy, if implemented, would be intended to:

- Promote homeownership at locations that are accessible to bus or rail transit facilities;
- Increase housing opportunities and choices by qualifying a broader range of homebuyers for housing located near transit;
- Increase confidence in TOD investment by providing an attractive mortgage product available only in transit-supportive communities.

Background

The Location Efficient Mortgage (LEM) is an innovative private sector mortgage product recently developed by 'Fannie Mae' (a national secondary mortgage program) and the Natural Resources Defense Fund (NRDC, a national environmental organization). This program provides extra home purchasing power in areas located near high-quality transit. It is intended to enhance the ability of prospective homebuyers to purchase a home within a TOD or urban infill area.

In California, Countrywide Homeloan Co. is currently implementing the program in 14 counties within the metropolitan Los Angeles and San Francisco areas as part of a market test. In addition, the program is also being provided in Chicago, Illinois, and Seattle, Washington. However, so far, fewer than 100 LEMs have been underwritten nationwide, and the majority of these loans have been in Chicago. To date, very few LEMs in California have been underwritten.

Challenges with expanding the LEM program in California include:

- The maximum loan amount on a LEM is $275,000, which is not enough money in many regions of the State where the median price of homes is much higher than that;

- There have been no strong or coordinated efforts to market the LEM program to consumers. (Banks typically provide 70+ mortgage instruments and rarely market a single instrument like the LEM); and
- Because there are so few LEMs, there is no 'track record' to indicate whether consumers who use LEMs have a higher risk of defaulting on their mortgages. The lack of a track record may limit the interests of other banks that could offer LEMs[213].

Actions

State involvement in this strategy, if implemented, would be directed at expanding the pilot program outside the Los Angeles and San Francisco areas.

It could include the following activities:

1. Sponsor expanded data collection efforts (such as the detailed land use and transportation database that was compiled by the NRDC for the existing program) to enable more areas of California to participate in LEM programs;
2. Undertake a statewide marketing program regarding LEMs; and,
3. Create a State "LEM loan guarantee program" in which the State could guarantee a portion of a qualified loan over $275,000.

Strengths

- The program currently operates in the free market financial arena, rather than as a State-subsidized mortgage program.
- Options 1 and 2 (above) would not require a substantial State financial investment. State funding would be limited to program marketing and development of an expanded LEM database.

Issues

- Fundamentals of the LEM program have not yet been broadly tested.
- The risks of a LEM loan guarantee program are unclear.
- To date, this program has not proven to be particularly popular in California.
- The benefits of implementing a LEM program may not justify its costs.

Policy Steering Committee's ratings regarding the implementation of this strategy:

How great a benefit or impact may result from this strategy?	**Low to Medium**
What is the practical feasibility of implementing this strategy?	**Low to Medium**
What is the timeframe for implementing this strategy?	**2-3 years**

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